

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300

WASHINGTON, DC 20007-5116

TELEPHONE (202) 424-7500

FACSIMILE (202) 424-7645

WWW.SWIDLAW.COM

PATRICK J. DONOVAN

DIRECT DIAL (202) 424-7857

PJDONOVAN@SWIDLAW.COM

NEW YORK OFFICE

919 THIRD AVENUE

NEW YORK, NY 10022-9998

(212) 758-9500 FAX (212) 758-9526

EX PARTE OR LATE FILED

October 4, 2001

RECEIVED

OCT - 4 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

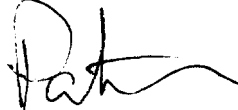
Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte*
CC Docket No. 01-77 /

Dear Ms. Salas:

Pursuant to Sections 1.1206(a) and (b) of the Commission's rules this will provide notice that on October 3, 2001, John K. Purcell, President and CEO and Charles Stockdale, VP and Corporate Counsel, FiberTech Networks, Inc. and the undersigned met with the following concerning issues in the above-captioned proceeding: Commissioner Kathleen Abernathy and Matthew Brill; Commissioner Kevin Martin and Sam Feder; Kyle Dixon, Office of the Chairman; Jordan Goldstein, Office of Commissioner Michael Copps; and Brent Olsen, Claudia Pabo, and Marcy Greene of the Common Carrier Bureau. We presented the information and views set forth in the attached document which was provided at these meetings.

Sincerely,



Patrick J. Donovan

cc: Commissioner Kathleen Abernathy
Commissioner Kevin Martin
Kyle Dixon
Jordan Goldstein
Sam Feder
Brent Olsen
Claudio Pabo
Marcy Greene

No. of Copies rec'd
List ABCDE

042



**FIBERTECH NETWORKS
BUSINESS PLAN OVERVIEW**

--

ACCESS TO ILEC CENTRAL OFFICES

John K. Purcell
President and CEO

Charles B. Stockdale
VP and Corporate Counsel

COMPANY OVERVIEW

- Designs, builds, and leases high performance dark-fiber networks in second and third tier markets in the Northeast, Mid-Atlantic, and Mid-Western United States. These are metro-area networks, not inter-city connections.
- Primary customers include CLECs, DLECs, ISPs, IXC's, and private and public entities. Our customers include major businesses and school districts that desire private networks.
- Fibertech is connecting telephone central offices, carrier hotels and other points-of-presence, schools, and major office parks and buildings.
- Fibertech's networks typically are 85% aerial.
- We have completed fiber networks in Syracuse, Albany, and Rochester, NY, as well as school networks in Geneva, Batavia, Cortland, and Palmyra, NY. We have networks underway in Buffalo, Springfield, Worcester, New Haven, Hartford, Providence, Indianapolis, Pittsburgh, Milwaukee, and Columbus.
- Fibertech expects to build 43 markets by 2005.
- Networks utilize state-of-the-art network architecture capable of supporting SONET, Dense Wave Division Multiplexing, ATM, and video. Transmission capabilities of 10-40 gigabits and capacity levels from OC-3 to OC-192 are provided.
- Fibertech provides lit fiber services upon customer request.

MARKET DRIVERS AND OPPORTUNITIES

- Strong demand for capacity. While major metro markets and inter-city routes have substantial capacity, there is a shortage in the 2nd and 3rd tier metro markets.
- Need for redundancy and route diversity.
- Need to upgrade older communications networks.
- Need for broadband capacity for multimedia and other new applications.
- Carriers' desire for low-cost local and regional transport.

BENEFITS TO CUSTOMERS

- Virtually unlimited bandwidth at affordable cost.
- Customers control their own fiber.
- Customers become facilities based, improving their own margins.
- Upgraded and lower-cost services spur economic development.

FIBERTECH PROGRESS AS OF OCTOBER 2001

Financial

- Closed May 31, 2000, on initial \$25-million equity investment; raised additional \$25 million in equity on March 29, 2001.
- This capital will fully fund the first 13 markets.
- Fibertech has no debt.

Sales/Marketing

- Signed \$100 million Master Agreement with Choice One Communications on 6/7/00. Choice One will be anchor tenant in at least 13 cities on Fibertech metro-area networks.
- Signed contracts with AT&T, Qwest, Allegiance, CTC, Connecticut Telephone, and the State of Connecticut.
- In total, Fibertech has signed contracts for \$175 million in sales since start-up in June 2000.

CHALLENGES

- Overcoming resistance of incumbent telephone companies to market entry by Fibertech.
 - Access to central offices and ability to connect to customer facilities in central offices on reasonable terms.
 - Timely and otherwise reasonable access to utility conduits and poles.

ACCESS TO ILEC CENTRAL OFFICES – SECTION 224

- A Coalition of Competitive Fiber Providers filed a petition for declaratory ruling on March 15, 2000.
 - The FCC should determine that competitive fiber providers may access ILEC duct and conduit leading to, and in, ILEC central offices for the purpose of providing services to CLECs in ILEC central offices.
- Section 224(f)(1) mandates access to “any” ILEC duct and conduit.
- Section 224(f)(1) establishes rights separate and different than collocation under Section 251(c)(6).
 - Collocation under Section 251(c)(6) is not a prerequisite to access pursuant to Section 224.
- ILEC central offices contain duct and conduit. FCC rules are flexible enough to encompass all ILEC wiring distribution systems.
 - Section 1.1401(I) of the rules define a conduit as a “structure” containing one or more ducts in which cables or wire may be installed.
 - Section 1.1401(k) defines a “duct” as a single enclosed raceway for cable and wiring. “Raceway” is not defined.
- ILECs should permit fiber providers to install in ILEC central offices equipment associated with wiring distribution such as connector blocks, signal regenerators, power supplies, and fiber distribution frames.
 - Section 224(f)(1) requires “nondiscriminatory” access to ILEC duct and conduit.
 - Installation of equipment is already permitted in connection with access to poles, duct, and conduit outside of ILEC central offices.
- Verizon already permits competitive fiber providers to extend fiber into central offices and install a fiber distribution frame as a voluntary matter under its Competitive Access Transport Terminal (“CATT”) tariff.

Target Markets Map

